

## REMARKS

### *Status of the Specification*

Applicants have amended the Specification to update the status of U.S. Patent Application No. 09/615,947.

Applicants have deleted embedded hyperlinks from page 6 of the Specification.

Applicants have deleted two question marks improperly inserted into the word “present” on page 30 of the Specification.

Applicants have amended the “FIGURE LEGEND” title on line 1 of page 34 of the Specification to read “BRIEF DESCRIPTION OF THE DRAWINGS,” as suggested by the Examiner.

Applicants have amended the descriptions of Figures 1a-c and 2a-c on page 34 of the Specification to correspond to the Figures themselves, as suggested by the Examiner.

Applicants have amended the list of sequences on pages 37-38 to recite SEQ ID NOs.

No new matter has been added.

### *Status of the Sequence Listing*

Enclosed herewith in full compliance with 37 C.F.R. §§1.821-1.825, is an electronic copy of the substitute Sequence Listing respectfully submitted in connection with the above-identified application to be inserted into the Specification. This Sequence Listing is submitted to replace the previously filed version of record. This Sequence Listing includes the nucleic acid sequences listed on pages 37-38 of the originally filed Specification, and in no way introduces new matter into the Specification. The electronic copy of the Sequence Listing, file “2007-10-31seqlist23388.txt,” **is identical to the paper copy**, except that it lacks formatting.

### ***Status of the claims***

Claims 13 and 19-25 are canceled; claims 28-45 are withdrawn; claims 1-10, 14, 17-18 and 26 are currently amended; and new claims 46-51 have been added.

Claim 1 has been amended to recite a sequence identity of 94%, support for which is found in original claim 7.

The limitation, "fragment" has been deleted from claims 1-10 and 17-18.

Claims 2, 14 and 17-18 have been amended for improved grammar.

Claim 7 has been amended to recite 95% sequence identity. New claims 46-50, which depend from claim 7, have been added. They recite sequence identity values formerly recited in claim 7.

The limitation, "derived," has been deleted from claim 9, and the limitations "proline rich complex" and "19 Kda lipoprotein" have been deleted from the group of fusion partners recited in claim 10.

The optional "means for detection" limitation has been deleted from claim 27.

New claim 51, which depends from claim 27, recites that the diagnostic composition of claim 27 comprises a nucleic acid probe capable of detecting a nucleic acid molecule that encodes the *esat-6* polypeptide of claim 1. Support for this amendment is found, for instance, in the specification on page 23, lines 5-14.

No new matter has been added.

### **1. Objections to the Specification**

The Examiner has objected to the Specification on six grounds (Office Action, pages 2-3). Applicants have amended the Specification as discussed above, thereby obviating these objections.

## **2. Objections to the Drawings**

The Examiner has objected to the figures for not corresponding to the brief description of the figures of the Specification. Applicants have amended the description of the figures on page 34 of the Specification so that both the Specification and Figures recite Figures 1a, 1b, 1c, 2a, 2b and 2c. Accordingly, the objection to the drawings is overcome.

## **3. Claim Rejection under 35 USC §101**

The Examiner has rejected claim 13 for reciting a use without setting forth process steps. (Office Action, page 4). Applicants have amended claim 13 into U.S. form, thereby obviating the rejection.

## **4. Claim Rejections under 35 USC §112, Second Paragraph**

The Examiner has imposed a series of indefiniteness rejections against claims 1-27. (Office Action, pages 4-8). Applicants respectfully traverse.

Applicants point out that the claims have been amended or canceled as described above. Applicants submit that those amendments and cancellations address all of the rejections with the exception of the indefiniteness rejection imposed against claims 1-3.

The Examiner alleges that the “immunologically equivalent” limitation of claims 1-3 is indefinite because the word, “or,” provides that there is no requirement that the two fragments satisfy the same property. (Office Action, page 15). Applicant point out that page 13 of the Specification clearly discloses that two or more polypeptides are immunologic equivalents when they both satisfy any one of the listed properties. Accordingly, Applicants respectfully request reconsideration and withdrawal of this aspect of the Examiner’s indefiniteness rejection.

### **5. Claim Rejections under 35 USC §112, First Paragraph - Enablement**

The Examiner has rejected claims 19 and 21-26 as allegedly not enabled. The Examiner's reasoning for imposing this rejection appears on pages 8-9 of the Office Action, and is not reproduced here. Although Applicants do not agree with the Examiner's reasoning, claims 19 and 21-26 have been canceled, thereby obviating this rejection.

### **6. Claim Rejections under 35 USC §102(e)**

The Examiner has rejected claims 1-7, 12, 14, 19-20 and 27 as allegedly anticipated by USPN 6,553, 653 to Alderson et al. The Examiner contends that Alderson et al. teaches an amino acid sequence having 93.2% sequence identity to presently claimed SEQ ID NO: 19, an esat-6 family member. Applicants have amended the claims to cover nucleic acid sequences having at least 94% sequence identity with an esat-6 family member, thereby obviating the rejection.

### **7. Conclusion**

In view of the foregoing amendments and remarks, Applicants respectfully request immediate allowance of the application, the claims of which are drawn to subject matter that meets all statutory requirements for patentability.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a three (3) month extension of time for filing a reply in connection with the present application, and the required fee is attached hereto.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Leonard R. Svensson (Reg. No. 30,330) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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By 

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